

In Re:
Hashim Syed and Nighat SyedCase No.: 22-17137 (VFP)
Chapter: 13
Judge: Vincent F. Papalia

NOTICE OF PROPOSED COMPROMISE or SETTLEMENT OF CONTROVERSY

Charles M. Forman, Chapter 7 Trustee for Prestige America Mfg. Corp., proposes a compromise, or to settle a claim and/or action as described below. If you object to the settlement or compromise, you must file a written objection with the Clerk of the United States Bankruptcy Court, and serve it on the person named below not later 7 days before the hearing date.

Address of the Clerk:	Jeanne A. Naughton, Clerk Martin Luther King Jr. Federal Building 50 Walnut Street, P.O. Box 1352 Newark, New Jersey 07102
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If an objection is filed, a hearing will be held before the Honorable Vincent F. Papalia on September 21, 2023, at 10:00 a.m. at the United States Bankruptcy Court, Courtroom No. 3B, Martin Luther King Jr. Federal Building, 50 Walnut Street, Newark, New Jersey (hearing to be scheduled for at least 28 days from the date of the filing of the notice). If no objection is filed the clerk will enter a *Certification of No Objection* and the settlement may be completed as proposed.

Nature of action: On August 24, 2021, H. Syed withdrew \$211,000.00 by way of a bank check from the Columbia Bank Account of the Chapter 7 Debtor, Prestige America Mfg. Corp. ("Prestige"), Case No. 21-19297, made payable to Vital Abstract LLC. On August 27, 2021, Vital Abstract deposited the Check in its account. The Check deposited by Vital Abstract on August 27, 2021, was for the purchase of property located at 54 Saw Mill Road, Kinnelon, New Jersey (the "Property") by H. Syed. On September 1, 2021, Vital Abstract disbursed the proceeds of the Check for the purchase of the Property by H. Syed. On September 1, 2021, H. Syed completed the purchase of the Property for the benefit of the Chapter 13 Debtors as their primary residence. Prestige received no benefit from the Purchase of the Property by H. Syed. H. Syed converted funds of Prestige, in the sum of \$211,000 for his own personal benefit for the purchase of the Property. A little over three (3) months later, H. Syed caused Prestige to file a Chapter 7 bankruptcy petition and a Chapter 7 Trustee (the "Trustee") was appointed. The Trustee alleges that H. Syed committed a wrongful act when he misappropriated funds from Prestige through improper means. The funds can be directly traced from Prestige to the purchase of the Property. The Trustee alleges that the conversion of the \$211,000 by H. Syed to purchase the Property warrants the imposition of a Constructive Trust (the "Constructive Trust") in favor of Prestige over the Property.
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Pertinent terms of settlement: The Trustee and the Chapter 13 Debtors settled this matter. Upon entry of an Order approving the executed Settlement Agreement, a Constructive Trust shall be imposed on the Property and the proceeds of the sale of the Property in favor of Prestige. After payment of the mortgage against the Property, and the realtor's commission, net sale proceeds of about \$226,500 will be available. Prestige has agreed to allow the Debtor's attorney to be paid \$28,000 in fees, \$20,692.13 to the State Division of Taxation to satisfy its judgment for unpaid taxes, and \$15,000 to H. Syed on account of his exemption claim. That will leave net sale proceeds of about \$162,807.87. On the date of the sale of the Property by the Chapter 13 Debtors, the closing agent shall remit to the Trustee for Prestige the sum of no less than ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000.00) (the "Settlement Funds"), or such other greater amount as calculated. The Trustee shall be paid the greater of \$160,000 and the net sale proceeds of the sale of the Property. Should the amounts payable to others than the Trustee be greater than the amounts indicated, the amount payable to the Debtor on account of his exemption claim shall be reduced accordingly so that Prestige receives a minimum of \$160,000. The parties shall mutually release each other from all further actions.
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Objections must be served on, and requests for additional information directed to:

Name: Steven A. Jayson, Esq., Mellinger Kartzman, LLC

Address: 101 Gibraltar Drive, Suite 2F, Morris Plains, New Jersey 07950

Telephone No.: (973) 267-0220